

BILL ANALYSIS

C.S.H.B. 405
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Texas law does not allow a physician in an emergency room to detain without warrant a person whom the physician has determined is mentally ill and that because of that mental illness there is a substantial risk of serious harm to the person or to others.

CSHB 405 grants attending physicians in an emergency room setting more authority over persons who may be a threat to themselves or others and allows these physicians to order those persons to be detained in the emergency room for 24 hours, until a peace officer arrives, or the local mental health authority arrives.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHB 405 amends Health and Safety Code. The committee substitute authorizes an attending physician at a hospital emergency room to hold a person who is believed to be mentally ill, and, because of that illness, there is a substantial risk of serious harm to the person or to others. The physician is authorized to hold the person at the hospital emergency room for a period not to exceed 24 hours pending the arrival of a representative of the local mental health authority or a peace officer able to transport the person to an inpatient mental health facility for a preliminary examination. The bill requires that physicians immediately release any person they have detained when the person no longer presents a substantial risk of serious harm to the person or to others. If the physician holds or releases the person under this law, the physician is required to notify the local mental health authority of the circumstances.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The bill as originally filed amends Section 573.001 of the Health and Safety Code; the committee substitute does not amend this Section. The original bill amends Section 573, Subchapter A of the Health and Safety Code by adding a Section 573.005 titled "Transportation and Application for Emergency Detention by Physician." Section 573.005 in the committee substitute is titled "Emergency Room Hold on Person."

As filed, Section 573.005 would allow a physician to order the transport of a person to an inpatient mental health facility for no more than 24 hours for a preliminary examination without the assistance of a peace officer if the physician has examined the person during the preceding 24 hours, and, based on the examination, the physician concludes that the person is mentally ill and there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained. After transporting or ordering the transportation of a person to a facility under this section, the physician immediately shall file an application for detention with the facility. The application for detention must contain a statement that the physician has examined the person during the preceding 24 hours, and based on the examination, the physician concludes

that the person is mentally ill and there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained. Furthermore, the physician shall provide a specific description of the risk of harm and a detailed description of the specific relevant behavior, acts, attempts, or threats by the person to be detained.

As substituted, Section 573.005 would allow a physician attending a person in an emergency room to hold a person in the emergency room if the physician believes that the person is mentally ill and a substantial risk of serious harm to self or others unless the person is restrained. The person may be held for 24 hours, until the local mental health authority arrives, until a peace officer arrives, or until s/he no longer presents a substantial risk of serious harm to self or others. Regardless of whether a person is held or released under this law, the physician must notify the local mental health authority of the circumstances. CSHB 405 clarifies rights under Health and Safety Code and excepts prosecution under Penal Code.